

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

CRAIG BRUTON,)
v.)
Plaintiff,)
JOE M. ALLBAUGH, *et al.*,)
Defendants.)
Case No. CIV-17-136-D

ORDER TRANSFERRING CASE

This matter is before the Court for review of the Report and Recommendation issued by United States Magistrate Judge Bernard M. Jones pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). Upon initial screening of the Complaint, Judge Jones recommends a dismissal without prejudice of Plaintiff's claims against Defendant Joe M. Allbaugh pursuant to 28 U.S.C. § 1915(e)(2)(B), and a transfer of venue for the action against the second defendant to the Northern District of Oklahoma.¹

The record reflects no timely objection to the Report nor request for additional time to object, although Plaintiff was expressly advised of the right to object and the waiver rule. The Court finds that Plaintiff has waived further review of the issues addressed in the Report. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); *see also United States v. 2121 E. 30th St.*, 73 F.3d 1057, 1060 (10th Cir. 1996). For this reason,

¹ This defendant is identified only as the warden of a prison facility in Vinita, Oklahoma, where Plaintiff was previously confined. Judge Jones does not determine whether Plaintiff has stated a claim for relief against this defendant but leaves the issue for decision by the transferee court. *See R&R at 5-6, n.5.*

and the reasons ably explained by Judge Jones, the Court finds that a without-prejudice dismissal of Defendant Allbaugh is appropriate and a transfer of the remaining action is warranted.

IT IS THEREFORE ORDERED that the Report and Recommendation [Doc. No. 11] is ADOPTED. Plaintiff's action against Defendant Joe M. Allbaugh is DISMISSED without prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and (iii).

IT IS FURTHER ORDERED that this action is transferred pursuant to 28 U.S.C. § 1406(a) to the United States District Court for the Northern District of Oklahoma.

IT IS SO ORDERED this 3rd day of May, 2017.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE